

TTAB

BOX: TTAB NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board

Opposition No: 91157645

Trademark: UNCLAIMED GEMS

Opposer: Rosedebor International, Inc.

Applicant: Bond Jewelers, Inc.

Attorney Docket No: 3006119-0001/01US



01-12-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

REQUEST TO SUSPEND PROCEEDINGS § 2.117

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Sir or Madam:

On behalf of Rosdebor International, Inc. of Philadelphia, PA, we request that further proceedings in this matter be suspended pending the termination of the civil action filed in the Eastern District of Pennsylvania styled Bond Jewelers, Inc. v. Rosdebor International, Inc., et al., Civil Action No. 03-3502, (USDC ED PA).

Applicant is plaintiff in the above litigation in which the mark that is subject to this application has been asserted against the potential Opposer. A copy of the Complaint filed in the above action is attached as Exhibit 1. In answer to the Complaint, potential Opposer has asserted that the claimed mark is invalid as being generic and has filed a Motion for Summary Judgment which is now pending before the Court.

As the above litigation is likely to have a significant bearing on the registrability of the claimed mark, potential Opposer requests that opposition proceedings be suspended pending the outcome of the litigation.

Respectfully submitted,

SCHNADER HARRISON SEGAL & LEWIS LLP

Dated: January 8, 2004

By. 

James R. Meyer
1600 Market Street, Suite 3600
Philadelphia, PA 19103
(215) 751-2622 (voice)
(215) 972-7677 (fax)
jmeyer@schnader.com (Internet)

ATTORNEYS FOR OPPOSER

Certification Under 37 CFR 1.8

I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage as first-class mail under 37 CFR 1.8 on the date indicated below addressed to:

Commissioner for Trademarks
BOX TTAB NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

with copies addressed to:

Craig J. J. Snyder, Esquire
67 Wall Street, Suite 2211
New York, NY 10005

Anna M. Durbin, Esquire
50 Rittenhouse Place
Ardmore, PA 19003-2276

Date: January 8, 2004


Name: Abigail Abbas

CIVIL COVER SHEET

The JS-44 civil cover sheet and information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Bond Jewelers, Inc.

DEFENDANTS

Rosedor International, Inc., Rosedor.com, Inc., Samuel Vayner and Boris Vayner

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEY'S FIRM NAME, ADDRESS AND TELEPHONE NUMBER:

Law Offices of Anna M. Durbin
50 Rittenhouse Place
Ardmore, PA 19003-2276

(610) 649-8200

ATTORNEYS (IF KNOWN):

Unknown

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff ☒ Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant ☐ Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

PTF	DEF	PTF	DEF
Citizen of This State		Incorporated or Principal Place of Business in This State	<input checked="" type="checkbox"/>
Citizen of Another State	<input checked="" type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input checked="" type="checkbox"/>
Citizen or Subject of a Foreign Country		Foreign Nation	<input checked="" type="checkbox"/>

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
10 Insurance 20 Marine 30 Motor Vehicle 40 Negotiable Instrument 50 Recovery of Overpayment 60 Enforcement of Judgment 70 Mortgage Act 80 Recovery of Detained Student Loans (1401, Veterans) 90 Recovery of Overpayment of Veterans' Benefits 100 Stockholders Suits 110 Other Contract 120 Contract Product Liability	PERSONAL INJURY 10 Airplane 15 Airplane Product Liability 120 Assault Libel & Slander 130 Federal Employers' Liability 140 Marine 145 Marine Product Liability 150 Motor Vehicle 155 Motor Vehicle Product Liability 160 Other Personal Injury	PERSONAL INJURY 152 Personal Injury - Med. Malpractice 55 Personal Injury - Product Liability 168 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 170 Other Fraud 171 Truth in Lending 180 Other Personal Property Damage 185 Property Damage Product Liability	10 Agriculture 20 Other Food & Drug 25 Drug Related Seizure of Property 21 USC 881 30 Labor Laws 40 R.R. & Truck 50 Anti-trust Regs. 60 Occupational Safety/Health 70 Other LABOR 710 Fair Labor Standards Act 720 Labor/Mgmt Relations 730 Labor/Mgmt: Representing a Disputable Act 740 Railway Labor Act 750 Other Labor Litigation 760 Equal Pay Act 770 Equal Pay Act 780 Equal Pay Act	122 Appr. 28 USC 158 123 Withdrawal 28 USC 157 PROPERTY RIGHTS 126 Copyrights 130 Patents 140 Trademarks SOCIAL SECURITY 141 FICA (1935) 142 Black Lung (1953) 143 DIWC/DIWW (1971) 144 SSID Title XVI 145 PSI (1951) FEDERAL TAX SUITS 170 Taxes (U.S. Plaintiff or Defendant) 171 IRS: Taxpayer 26 USC 7656
REAL PROPERTY 10 Land Condemnation 20 Foreclosure 30 Rent Lease & Ejectment 40 Torts to Land 45 Tort Product Liability 50 All Other Real Property	CIVIL RIGHTS 141 Voting 142 Employment 143 Housing Accommodations 144 Welfare 145 Other Civil Rights	PRISONER PETITIONS 510 Motions in Vacate Sentence HABEAS CORPUS: 520 General 530 Death Penalty 540 Mandamus & Other 550 Civil Rights 560 Prison Conditions		181 State Responsibility 182 Arbitration 183 Banks and Banking 184 Commercial Code 185 Deposition 186 Receivership 187 Selective Service 188 Securities Commission 189 Securities Exchange 190 Customer Challenge 191 Agricultural Acts 192 Economic Sanctions Act 193 Environmental Matters 194 Energy Allocation 195 Freedom of Information Act 196 Appr. of Fed. Reserve 197 Fair Labor Act 198 Constitutionality of State Statutes 199 Other Statutory Actions

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal from District Judge or Magistrate ☐

VI. CAUSE OF ACTION

WRITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL STATUTES (NUMBER DIVERSITY).

15 U.S.C. Section 1125(a), 15 U.S.C. Section 1125(c). Service mark infringement, service mark dilution and unfair competition.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$
Injunctive Relief ☐

CHECK YES only if demanded in Complaint
JURY DEMAND: YES ☒

VIII. RELATED CASE(S) (See Instructions):
IF ANY

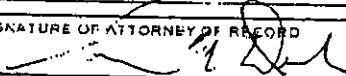
JUDGE

DOCKET NUMBER

DATE

6/5/03

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING FEE _____ JUDGE _____ MAG. JUDGE _____

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Bond Jewelers, Inc,

CIVIL ACTION

v.

Rosedebor International, Inc.,

Rosedebor.com, Inc., Samuel Vayner,

NO.

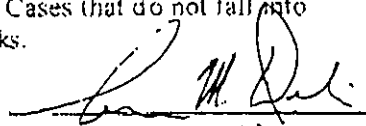
and Boris Vayner

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1.03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

6/5/13
Date


Attorney-at-law
PLAINTIFF
Attorney for

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Bond Jewelers, 113 South 8th Street, Philadelphia, PA 19106

Address of Defendant: Rosedebor International, Inc., 104 South 8th Street, 3d Floor, Philadelphia
Rosedebor.com, Inc., Samuel Vayner, Boris Vayner, 800 Chestnut Street No. 11
Philadelphia, PA 19106

Place of Accident, Incident or Transaction: _____

Defendant's addresses above and the internet (Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒

CIVIL (Place ☐ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases Trademark - Lanham Act
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Anna M. Durbin, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: June 5, 2003

Attorney at Law

30555

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: June 5, 2003

Attorney at Law

30555

Attorney I.D.#

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BOND JEWELERS, INC.

v.

**ROSEDEBOR INTERNATIONAL, INC.,
ROSEDEBOR.COM, INC., SAMUEL VAYNER AND
BORIS VAYNER**

CIVIL ACTION NO. 03-3502

**TO: (NAME AND ADDRESS OF
DEFENDANT)**

*Rosedebor International Inc.
104 South 8th Street
3rd Floor
Philadelphia, PA 19107*

YOU ARE HEREBY SUMMONED and required to serve upon

Plaintiff's Attorney (Name and Address)

**ANNA M. DURBIN, ESQ.
50 RITTENHOUSE PLACE
ARDMORE, PA. 19003**

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Michaël E. Kunz, Clerk of Court

Date: JUNE 5, 2003

(By) Deputy Clerk

[Signature]
STEPHENSONNIE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

-----X
BOND JEWELERS, INC. :

Plaintiff, : Civil Action No.

- against - :

COMPLAINT

ROSEDEBOR INTERNATIONAL, INC., :
ROSEDEBOR.COM, INC., SAMUEL :
VAYNER AND BORIS VAYNER, :

Defendants. :

-----X

Plaintiff, Bond Jewelers, Inc., by its undersigned attorneys, as and for its complaint
alleges as follows:

NATURE OF THE ACTION

1. This is an action arising from the adoption and use by defendants of plaintiff's
service marks "UNCLAIMED DIAMONDS", "UNCLAIMED JEWELRY" and "UNCLAIMED
GEMS" and trade name "UNCLAIMED DIAMONDS" in violation of Sections 43(A) and 43(C)
of the Lanham Act (15 U.S.C. § 1125(a), 15 U.S.C. § 1125(c)) and related misconduct.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over Counts I-V in this action (1) pursuant
to 28 U.S.C. § 1331, since it is a civil action arising under the laws of the United States, and (2)
pursuant to 15 U.S.C. § 1121, since it is an action arising under the Lanham Act. This Court has
subject matter jurisdiction over Counts VI-IX of this action, pursuant to 28 U.S.C. § 1367(a)
since they are so related to claims in the action within the Court's original jurisdiction that
they form part of the same case or controversy under Article III of the U.S. Constitution.

3. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) in that (1) defendants reside in the Eastern District of Pennsylvania, and (2) a substantial part of the events giving rise to the claim occurred in the Eastern District of Pennsylvania.

PARTIES

4. Plaintiff Bond Jewelers, Inc. is a Pennsylvania corporation with a principal address at 113 South 8th Street, Philadelphia, Pennsylvania 19106.

5. Defendant Rosedebor International, Inc. is a Pennsylvania corporation with a principal address at 104 South 8th Street, 3rd Floor, Philadelphia, Pennsylvania 19107.

6. Defendant Rosedebor.com, Inc. is a Pennsylvania corporation with a principal address at 800 Chestnut Street, No. 106, Philadelphia, Pennsylvania 19106.

7. Defendant Samuel Vayner is an individual doing business under the fictitious name Rosdebor.com with an address at 800 Chestnut Street, No. 106, Philadelphia, Pennsylvania 19106. Upon information and belief defendant Samuel Vayner conducts business at 104 South 8th Street, 3rd Floor, Philadelphia, Pennsylvania 19107.

8. Defendant Boris Vayner is an individual doing business under the fictitious name Rosdebor.com with an address at 800 Chestnut Street, No. 106, Philadelphia, Pennsylvania 19106. Upon information and belief defendant Boris Vayner conducts business at 104 South 8th Street, 3rd Floor, Philadelphia, Pennsylvania 19107.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

9. Plaintiff maintains a retail jewelry business at 113 South 8th Street, Philadelphia, Pennsylvania 19106 under the trade name "UNCLAIMED DIAMONDS."

10. Plaintiff maintains an internet website advertising its retail jewelry services and providing online jewelry ordering services under the service mark UNCLAIMED DIAMONDS

11. Plaintiff owns the following internet domain names:

unclaimeddiamonds.com	unclaimeddiamonds.org
unclaimeddiamonds.us	unclaimeddiamonds.shop
unclaimeddiamonds.com	unclaimeddiamonds.biz
unclaimeddiamonds.net	unclaimeddiamonds.info
unclaimeddiamonds.org	unclaimeddiamonds.shop
unclaimeddiamonds.us	unclaimed-diamonds.com
unclaimed-diamonds.biz	unclaimed-diamonds.net
unclaimed-diamonds.info	unclaimed-diamonds.org
unclaimed-diamonds.shop	unclaimed-diamonds.us
unclaimedjewelry.com	unclaimedjewelry.biz
unclaimedjewelry.net	unclaimedjewelry.info
unclaimedjewelry.org	unclaimedjewelry.shop
unclaimedjewelry.us	

12. Plaintiff adopted the service mark and trade name "UNCLAIMED DIAMONDS" for use in connection with its services at least as early as June 1996 and has continuously used the trade name and mark in connection with its services since that time.

13. Plaintiff adopted the service mark "UNCLAIMED JEWELRY" for use in connection with its services at least as early as April 2002 and has continuously used the mark in connection with its services since that time.

14. Plaintiff adopted the service mark "UNCLAIMED GEMS" for use in connection with its services at least as early as April 2002 and has continuously used the mark in connection with its services since that time.

15. Plaintiff has continuously used the UNCLAIMED DIAMONDS service mark in interstate commerce since at least June 1996.

16. Plaintiff has continuously used the UNCLAIMED JEWELRY service mark in interstate commerce since at least April 2002.

17. Plaintiff has continuously used the UNCLAIMED JEWELRY service mark in interstate commerce since at least April 2002.

18. Defendants maintain a business across the street from plaintiff's business at 104 South 8th Street, 3rd Floor, Philadelphia, Pennsylvania 19107.

19. Defendants maintain an internet retail jewelry business and online ordering service under the domain name "rosedebor.com."

20. Defendants established an online retail jewelry "store" on the internet auction website known as "ebay" under the name UNCLAIMED DIAMONDS.

21. Defendants established an online retail jewelry "store" on the internet auction website known as "ebay" under the name UNCLAIMED JEWELRY.

22. Defendants established an online retail jewelry "store" on the internet auction website known as "ebay" under the name UNCLAIMED GEMS.

23. Upon information and belief, defendants established their online "stores" on "ebay" with actual knowledge that plaintiff was using the UNCLAIMED DIAMONDS service mark and trade name and its UNCLAIMED JEWELRY and UNCLAIMED GEMS marks for its services.

24. Since long prior to defendants' establishment of their online "stores" on "ebay" and continuing to the present, plaintiff has continuously and extensively advertised and otherwise promoted its jewelry services and made significant sales of jewelry in U.S. commerce under its UNCLAIMED DIAMONDS service mark and trade name and its UNCLAIMED JEWELRY and UNCLAIMED GEMS service marks.

25. As a result of the sales, advertising and promotion of goods and services under the UNCLAIMED DIAMONDS trade name and service mark and the UNCLAIMED JEWELRY and UNCLAIMED GEMS service marks, plaintiff has built valuable goodwill in its service marks and trade name, which have come to signify quality products and services originating with plaintiff.

26. As a result of the sales, advertising and promotion of goods and services under the UNCLAIMED DIAMONDS trade name and service mark and the UNCLAIMED JEWELRY and UNCLAIMED GEMS service marks, the service marks and trade name have become distinctive.

27. As a result of the sales, advertising and promotion of goods and services under the UNCLAIMED DIAMONDS trade name and service mark, the UNCLAIMED DIAMONDS service mark and trade name has become famous.

28. The services of defendants for which defendants have adopted the marks UNCLAIMED DIAMONDS, UNCLAIMED JEWELRY and UNCLAIMED GEMS are identical or closely related to the services with which plaintiff has used its UNCLAIMED DIAMONDS trade name and service mark and UNCLAIMED JEWELRY and UNCLAIMED GEMS service marks.

29. The services of defendants for which defendants have adopted the marks UNCLAIMED DIAMONDS, UNCLAIMED JEWELRY and UNCLAIMED GEMS are sold to the same classes of purchasers as the services originating from plaintiff under its UNCLAIMED DIAMONDS trade name and service mark and UNCLAIMED JEWELRY and UNCLAIMED GEMS services mark and are advertised and promoted through similar media of communication.

30. The marks UNCLAIMED DIAMONDS, UNCLAIMED JEWELRY and UNCLAIMED GEMS adopted by defendants are identical to plaintiff's UNCLAIMED DIAMONDS trade name and service mark and UNCLAIMED JEWELRY and UNCLAIMED GEMS service marks.

31. As a result of defendants' adoption of the marks UNCLAIMED DIAMONDS, UNCLAIMED JEWELRY and UNCLAIMED GEMS, the public is likely to be confused and deceived into the mistaken belief that defendants' services have their origin with plaintiff, or that such services were approved, endorsed or sponsored by plaintiff or are associated in some way with plaintiff's services.

32. As a result of defendants' adoption of the marks UNCLAIMED DIAMONDS, UNCLAIMED JEWELRY and UNCLAIMED GEMS, the public has been confused and deceived into the mistaken belief that defendants' services have their origin with plaintiff, or that such services were approved, endorsed or sponsored by plaintiff or are associated in some way with plaintiff's services.

33. Plaintiff has been damaged and will continue to be damaged by defendants' adoption and use of the marks UNCLAIMED DIAMONDS, UNCLAIMED JEWELRY and UNCLAIMED GEMS because the marks are so similar to those of plaintiff that, when applied to the applicable services, it has caused and is likely to continue to cause confusion, or to cause

mistake or to deceive, and falsely suggest a connection with plaintiff.

34. Plaintiff's valuable goodwill in its trade name and service marks has been damaged and will continue to be damaged by defendants' adoption of the marks UNCLAIMED DIAMONDS, UNCLAIMED JEWELRY and UNCLAIMED GEMS.

35. Defendants' adoption of the UNCLAIMED DIAMONDS mark has diluted the distinctive quality of plaintiff's UNCLAIMED DIAMONDS service mark, thus damaging plaintiff.

COUNT I

Misleading Use of a Service Mark and Unfair Competition in Violation of Section 43(A) of the Lanham Act

36. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 35 as though set forth fully herein.

37. Plaintiff has never authorized defendants to use its UNCLAIMED DIAMONDS service mark in connection with their services.

38. Defendants have used and continue to use in commerce the UNCLAIMED DIAMONDS service mark in connection with their services.

39. Defendants' use of the UNCLAIMED DIAMONDS service mark in connection with their services is likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection, or association of the defendants with plaintiff.

40. Defendants' use of the UNCLAIMED DIAMONDS service mark in connection with their services has caused confusion, mistake or deception as to the origin, sponsorship, or approval of defendants' services by plaintiff.

41. Plaintiff has suffered damages as a result of defendants' wrongful use of the UNCLAIMED DIAMONDS service mark in connection with their services.

42. Defendants have used, in connection with their services, names and false designations of origin which are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of defendants with plaintiffs, or plaintiffs' sponsorship or approval of defendants' services.

43. Defendants' acts are in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a)).

44. Defendants' acts were intentional and willful.

45. Plaintiff is entitled to an order enjoining defendants' further misleading use of its UNCLAIMED DIAMONDS service mark.

46. Plaintiff is entitled to damages as a result of defendants' misleading use of its UNCLAIMED DIAMONDS service mark.

COUNT II

Misleading Use of a Service Mark and Unfair Competition in Violation of Section 43(A) of the Lanham Act

47. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 46 as though set forth fully herein.

48. Plaintiff has never authorized defendants to use its UNCLAIMED JEWELRY service mark in connection with their services.

49. Defendants have used and continue to use in commerce the UNCLAIMED JEWELRY service mark in connection with their services.

50. Defendants' use of the UNCLAIMED JEWELRY service mark in connection with their services is likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection, or association of the defendants with plaintiff.

51. Defendants' use of the UNCLAIMED JEWELRY service mark in connection with their services has caused confusion, mistake or deception as to the origin, sponsorship, or approval of defendants' services by plaintiff.

52. Plaintiff has suffered damages as a result of defendants' wrongful use of the UNCLAIMED JEWELRY service mark in connection with their services.

53. Defendants have used, in connection with their services, names and false designations of origins which are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of defendants with plaintiffs, or plaintiffs' sponsorship or approval of defendants' services.

54. Defendants' acts are in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a)).

55. Defendants' acts were intentional and willful.

56. Plaintiff is entitled to an order enjoining defendants' further misleading use of its UNCLAIMED JEWELRY service mark.

57. Plaintiff is entitled to damages as a result of defendants' misleading use of its UNCLAIMED JEWELRY service mark.

COUNT III

Misleading Use of a Service Mark and Unfair Competition in Violation of Section 43(A) of the Lanham Act

58. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 57 as though set forth fully herein.

59. Plaintiff has never authorized defendants to use its UNCLAIMED GEMS. service mark in connection with their services.

60. Defendants have used and continue to use in commerce the UNCLAIMED GEMS service mark in connection with their services.

61. Defendants' use of the UNCLAIMED GEMS service mark in connection with their services is likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection, or association of the defendants with plaintiff.

62. Defendants' use of the UNCLAIMED GEMS service mark in connection with their services has caused confusion, mistake or deception as to the origin, sponsorship, or approval of defendants' services by plaintiff.

63. Plaintiff has suffered damages as a result of defendants' wrongful use of the UNCLAIMED GEMS service mark in connection with their services.

64. Defendants have used, in connection with their services, names and false designations of origins which are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of defendants with plaintiffs, or plaintiffs' sponsorship or approval of defendants' services.

65. Defendants' acts are in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a)).

66. Defendants' acts were intentional and willful.

67. Plaintiff is entitled to an order enjoining defendants' further misleading use of its UNCLAIMED GEMS service mark.

68. Plaintiff is entitled to damages as a result of defendants' misleading use of its UNCLAIMED GEMS service mark.

COUNT IV

Adoption and Use of a Misleading Trade Name in Violation of Section 43(A) of the Lanham Act

69. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 68 as though set forth fully herein.

70. Plaintiff has never authorized defendants to use its UNCLAIMED DIAMONDS trade name (the "Trade Name").

71. Defendants have used and continue to use the Trade Name in commerce.

72. Defendants' use of the Trade Name is likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection, or association of the defendants with plaintiff.

73. Defendants' use of the Trade Name has caused confusion, mistake or deception as to the origin, sponsorship, or approval of defendants' services by plaintiff.

74. Plaintiff has suffered damages as a result of defendants' wrongful use of the Trade Name.

75. Defendants have used, in connection with their services, names and false designations of origins which are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of defendants with plaintiffs, or plaintiff's sponsorship or approval of defendants' services.

76. Defendants' acts are in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a)).

77. Defendants' acts were intentional and willful.

78. Plaintiff is entitled to an order enjoining defendants' further misleading use of its Trade Name.

79. Plaintiff is entitled to damages as a result of defendants' misleading use of its Trade Name.

COUNT V

**Service Mark Dilution
in Violation of Section 43(C) of the Lanham Act**

80. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 79 as though set forth fully herein.

81. Plaintiff's UNCLAIMED DIAMONDS mark is distinctive and famous.

82. Defendants commenced commercial use of plaintiff's famous UNCLAIMED DIAMONDS mark after it became famous.

83. Defendants' unauthorized commercial use of plaintiff's famous UNCLAIMED DIAMONDS mark has diluted the distinctive quality of the mark.

84. Defendants willfully intended to trade on plaintiff's reputation or to cause dilution of its famous UNCLAIMED DIAMONDS mark.

85. Defendants' acts are in violation of Section 43(C) of the Lanham Act (15 U.S.C. § 1125(c)).

86. Plaintiff is entitled to an order enjoining further dilution of its UNCLAIMED DIAMONDS service mark.

87. Plaintiff is entitled to damages as a result of defendants' dilution of its UNCLAIMED DIAMONDS service mark.

COUNT VI

Service Mark Infringement in Violation of 54 P.A. C.S. § 1123

88. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 87 as though set forth fully herein.

89. Plaintiff is the owner of the service mark UNCLAIMED DIAMONDS, which mark is registered under Chapter 11 of Title 54 of the Pennsylvania Consolidated Statutes.

90. Plaintiff has never authorized defendants to use its UNCLAIMED DIAMONDS service mark in connection with their services.

91. Defendants have used and continue to use plaintiff's UNCLAIMED DIAMONDS service mark in advertising of its services in a manner likely to cause confusion or mistake or to deceive as to the source of such services.

92. Defendants' use of plaintiff's UNCLAIMED DIAMONDS service mark was and remains in bad faith with the intent to cause confusion or mistake or to deceive.

93. Plaintiff has suffered damages as a result of defendants' wrongful use of the UNCLAIMED DIAMONDS mark in connection with their services.

94. Defendants' acts are in violation of 54 P.A. C.S. § 1123.

95. Plaintiff is entitled to an order enjoining defendants' further use of plaintiff's UNCLAIMED DIAMONDS mark.

96. Plaintiff is entitled to a judgment for an amount three times defendants' profits derived from their use of plaintiff's UNCLAIMED DIAMONDS mark and the damages suffered by plaintiff as well as reasonable attorneys' fees.

COUNT VII

Service Mark Infringement in Violation of 54 P.A. C.S. § 1123

97. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 96 as though set forth fully herein.

98. Plaintiff is the owner of the service mark UNCLAIMED JEWELRY, which mark is registered under Chapter 11 of Title 54 of the Pennsylvania Consolidated Statutes.

99. Plaintiff has never authorized defendants to use its UNCLAIMED JEWELRY service mark in connection with their services.

100. Defendants have used and continue to use plaintiff's UNCLAIMED JEWELRY service mark in advertising of its services in a manner likely to cause confusion or mistake or to deceive as to the source of such services.

101. Defendants' use of plaintiff's UNCLAIMED JEWELRY service mark was and remains in bad faith with the intent to cause confusion or mistake or to deceive.

102. Plaintiff has suffered damages as a result of defendants' wrongful use of the UNCLAIMED JEWELRY mark in connection with their services.

103. Defendants' acts are in violation of 54 P.A. C.S. § 1123.

104. Plaintiff is entitled to an order enjoining defendants' further use of plaintiff's UNCLAIMED JEWELRY mark.

105. Plaintiff is entitled to a judgment for an amount three times defendants' profits derived from their use of plaintiff's UNCLAIMED JEWELRY mark and the damages suffered by plaintiff as well as reasonable attorneys' fees.

COUNT VIII

Service Mark Infringement in Violation of 54 P.A. C.S. § 1123

106. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 105 as though set forth fully herein.

107. Plaintiff is the owner of the service mark UNCLAIMED GEMS, which mark is registered under Chapter 11 of Title 54 of the Pennsylvania Consolidated Statutes.

108. Plaintiff has never authorized defendants to use its UNCLAIMED GEMS service mark in connection with their services.

109. Defendants have used and continue to use plaintiff's UNCLAIMED GEMS service mark in advertising of its services in a manner likely to cause confusion or mistake or to deceive as to the source of such services.

110. Defendants' use of plaintiff's UNCLAIMED GEMS service mark was and remains in bad faith with the intent to cause confusion or mistake or to deceive.

111. Plaintiff has suffered damages as a result of defendants' wrongful use of the UNCLAIMED GEMS mark in connection with their services.

112. Defendants' acts are in violation of 54 P.A. C.S. § 1123.

113. Plaintiff is entitled to an order enjoining defendants' further use of plaintiff's UNCLAIMED GEMS mark.

114. Plaintiff is entitled to a judgment for an amount three times defendants' profits derived from their use of plaintiff's UNCLAIMED GEMS mark and the damages suffered by plaintiff as well as reasonable attorneys' fees.

COUNT IX

**Service Mark Dilution
in Violation of 54 P.A. C.S. § 1124**

115. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 114 as though set forth fully herein.

116. Plaintiff's UNCLAIMED DIAMONDS mark is distinctive and famous in the Commonwealth of Pennsylvania.

117. Defendants commenced commercial use of plaintiff's famous UNCLAIMED DIAMONDS mark after it became famous.

118. Defendants' unauthorized commercial use of plaintiff's famous UNCLAIMED DIAMONDS mark has diluted the distinctive quality of the mark.

119. Defendants willfully intended to trade on plaintiff's reputation or to cause dilution of its famous UNCLAIMED DIAMONDS mark.

120. Defendants' use of plaintiff's UNCLAIMED DIAMONDS service mark was and remains in bad faith with the intent to trade on plaintiff's reputation and to cause dilution of its famous mark.

121. Plaintiff has suffered damages as a result of defendants' dilution of the UNCLAIMED DIAMONDS mark.

122. Defendants' acts are in violation of 54 P.A. C.S. § 1124.

123. Plaintiff is entitled to an order enjoining further dilution of its UNCLAIMED DIAMONDS service mark.

124. Plaintiff is entitled to a judgment for an amount three times defendants' profits derived from their use of plaintiff's UNCLAIMED DIAMONDS mark and the damages suffered by plaintiff as well as reasonable attorneys' fees.

RELIEF

WHEREFORE, plaintiff respectfully requests:

(A) An order permanently enjoining defendants' use of the service mark "UNCLAIMED DIAMONDS" in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a));

(B) An order permanently enjoining defendants' use of the service mark "UNCLAIMED JEWELRY" in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a));

(C) An order permanently enjoining defendants' use of the service mark "UNCLAIMED GEMS" in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a));

(D) A judgment against defendants, jointly and severally, in an amount to be determined at trial, for damages suffered by plaintiff arising from their use of the service mark "UNCLAIMED DIAMONDS" in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a));

(E) A judgment against defendants, jointly and severally, in an amount to be determined at trial, for damages suffered by plaintiff arising from their use of the service mark "UNCLAIMED JEWELRY" in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a));

(F) A judgment against defendants, jointly and severally, in an amount to be determined at trial, for damages suffered by plaintiff arising from their use of the service mark "UNCLAIMED GEMS" in violation of Section 43(A) of the Lanham Act (15 U.S.C. § 1125(a));

(G) An order permanently enjoining defendants' dilution of the service mark "UNCLAIMED DIAMONDS" in violation of Section 43(C) of the Lanham Act (15 U.S.C. § 1125(c));

(H) A judgment against defendants, jointly and severally, in an amount to be determined at trial, for damages suffered by plaintiff arising from defendants' intentional and willful dilution of plaintiff's service mark "UNCLAIMED DIAMONDS" in violation of Section 43(C) of the Lanham Act (15 U.S.C. § 1125(c));

(I) An order permanently enjoining defendants' infringement of the service mark "UNCLAIMED DIAMONDS" in violation of 54 P.A. C.S. § 1123;

(J) An order permanently enjoining defendants' infringement of the service mark "UNCLAIMED JEWELRY" in violation of 54 P.A. C.S. § 1123;

(K) An order permanently enjoining defendants' infringement of the service mark "UNCLAIMED GEMS" in violation of 54 P.A. C.S. § 1123;

(L) A judgment against defendants, jointly and severally, in an amount to be determined at trial, for three times defendants' profits derived from their use of plaintiff's UNCLAIMED DIAMONDS service mark in violation of 54 P.A. C.S. § 1123 and the damages suffered by plaintiff as well as reasonable attorneys' fees;

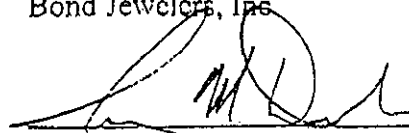
(M) A judgment against defendants, jointly and severally, in an amount to be determined at trial, for three times defendants' profits derived from their use of plaintiff's UNCLAIMED JEWELRY service mark in violation of 54 P.A. C.S. § 1123 and the damages suffered by plaintiff as well as reasonable attorneys' fees;

(N) A judgment against defendants, jointly and severally, in an amount to be determined at trial, for three times defendants' profits derived from their use of plaintiff's UNCLAIMED GEMS service mark in violation of 54 P.A. C.S. § 1123 and the damages suffered by plaintiff as well as reasonable attorneys' fees; and

(O) Attorneys' fees, costs, punitive damages, interest and such other and further relief as this Court may deem just and proper.

Dated: June 3, 2003

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